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ABSTRACT

One of six courses to cover the six parts of the Certified Professional Secretary Examination, this course in business and public policy is appropriate for use in adult education programs, secondary schools, and community colleges of New York State. It is recommended that specific cases be used with each of the ten lessons to exemplify the major principles involved. The areas covered by the lessons include: contracts; sales; bailments, agency, and employment; negotiable instruments; insurance; real and personal property, wills, and inheritance; government protection of business; government regulation of business; and law enforcement. For each lesson objectives are stated, the lesson content is outlined, and teaching suggestions and references are provided. (AG)

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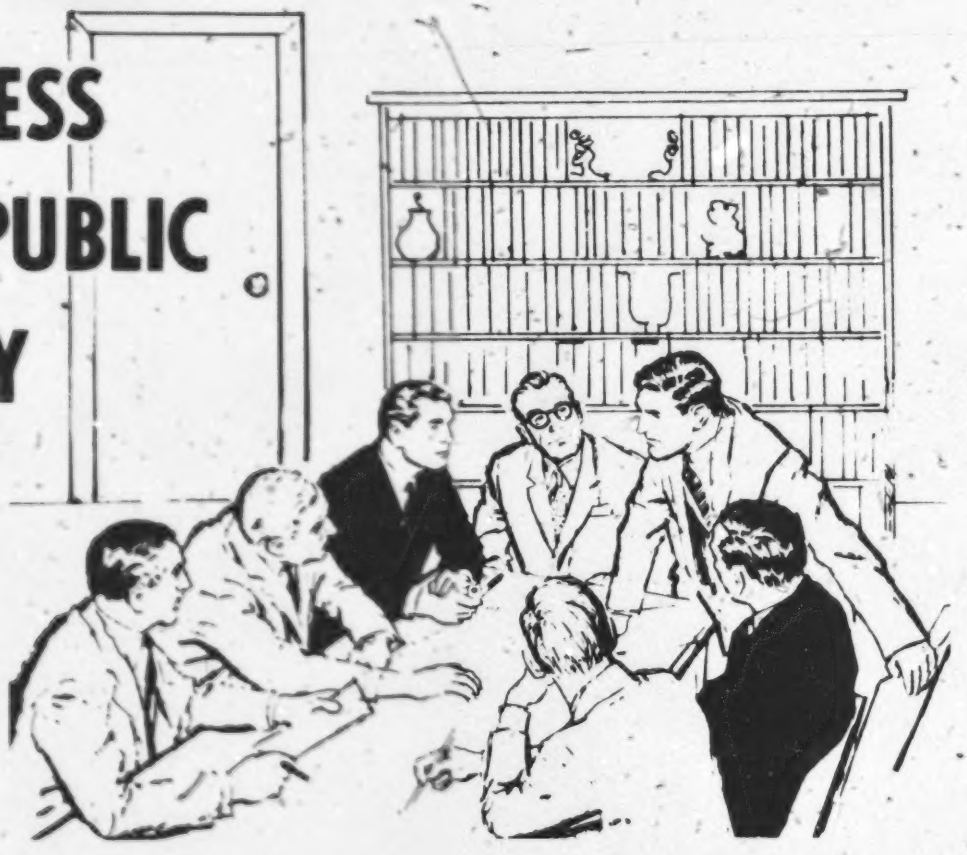

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Part II in a Series
Preparation for Certified Professional Secretary Examination

Business and Public Policy

A Suggested Adult Business Education Course

The University of the State of New York
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Foreword

The course described in this booklet, *Business and Public Policy*, is intended as a review for those preparing to take Part II of the Certified Professional Secretary (CPS) examination. This part of the examination, which is given by the National Secretaries Association (International), bears the same title as this booklet. This course can also be used for those secretaries wishing to update their knowledge in the subject matter.

Information about the CPS examination can be obtained from the headquarters office of the Institute for Certifying Secretaries, National Secretaries Association (International), 616 East 63d Street, Kansas City, Missouri 64110.

Six courses to cover the six parts of the CPS examination were planned by a committee consisting of the following: Marian N. Batten, CPS, secretary to the manager of Nonexempt Compensation and Benefits, General Electric Company, Schenectady; Hobart H. Conover, chief of the Bureau of Business Education; Carla V. R. Delray, CPS, manager of Office Services and Corporate Planning Administration, Mohasco Industries, Amsterdam; Adrian C. Gonyea, dean, School of Business, Hudson Valley Community College, Troy; E. Noah Gould, associate, Bureau of Continuing Curriculum; Florence E. Graham, chairman, Business Education Department, Draper High School, Rotterdam; Margaret A. McKenna, associate professor of business education, State University of New York at Albany; B. Bertha Wakin, professor of business education, State University of New York at Albany; and Eugene Whitney, associate, Bureau of Business Education. Mr. Gould and Mr. Whitney were cochairmen.

This course, *Business and Public Policy*, was written by Miss Batten; revisions were made by Miss Wakin. Miss Wakin also directly supervised the writing and coordinated the content among the courses in the series. Mr Gould did the final editing of this manuscript and is in general charge of the series.

HERBERT BOTHAMLEY, *Chief*
Bureau of Continuing Education
Curriculum Development

GORDON E. VAN HOOFT, *Director*
Division of Curriculum Development

Message to the Instructor

This instructor's guide is intended as an aid in the presentation of a well-organized course. Since it is a review course, those taking it are expected to have a good background in the subject content. Upon completion of the course the student will, we hope, have improved and refined her knowledge of business law, and will be better equipped to take Part II of the CPS examination.

The content of this booklet is suitable for use in the adult education programs of school districts and of Boards of Cooperative Educational Services (BOCES), and in the secondary schools and community colleges of New York State. The instructor should select cases for use in the course which will apply the major principles covered. It is strongly recommended that one class session be held in a county law library to give the students some feeling for law books and other references on business law. Instructors should urge the students to bring in current items from newspapers and other sources which might have bearing on course content.

In a course dealing with law, discussion of cases is important, if not essential. The references given in each lesson of this course contain cases which can be used for class discussion. Also, Lesson 10 lists many cases keyed to Lessons 1 through 9. We recommend that some of these cases be used with each lesson as it is covered in class, and that others be used at the end of the course for a general review.

The content of this course can generally be covered in 10 sessions of 3 hours each, but this pattern is by no means universal, nor is it mandatory in any sense. For those students who wish to cover some topics in greater depth, the instructor may wish to suggest materials for independent study.

The instructor should have some background in business law. Such a person might be a lawyer, a business law instructor in college or high school, or a Certified Professional Secretary who is especially well trained and experienced in legal principles.

An instructor or administrator who needs help in planning or conducting a course using this publication may contact the Bureau of Business Education.

HOBART H. CONOVER, *Chief*
Bureau of Business Education

ROBERT H. BIELEFELD, *Director*
Division of Occupational Education Instruction

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Lesson 1

Introduction and Review of Contracts

OBJECTIVES

At the end of this lesson, the student should:

Understand the meaning, purpose, and importance of contracts in modern business life,

Be able to

Explain the basic elements of a contract,

Determine the rights and responsibilities of parties to a contract,

Explain and define the various types of contracts, and

Apply this information to the solving of selected case problems.

CONTENT OUTLINE	TEACHING SUGGESTIONS AND REFERENCES
I. Introduction to the Course	Introduce yourself and have the students introduce themselves by giving their names, some information about their employment and their reasons for taking the course.
A. Course purpose	Explain that the purpose of the course is to review the basic elements of business law.
B. Textbooks and references	The students should have at least one basic textbook. Any current business law textbook can be used for assignments and reading material. You can use one of those in the bibliography or any other you prefer. For ease in reference and assignments, you may want all class members to use the same book.

	C. Course content	State that this course will be a review of basic information in business law: contracts, sales, bailments and agency, employment, negotiable instruments, real and personal property, wills, and some of the regulatory legislation which affects the individual. Spend about 15 minutes developing the basic ideas of law and the need for it in our society.
II.	Contracts	Mention that a review of contracts will be conducted. Explain that contracts make up the basic structure on which business is based, and that other areas of business law are closely related.
	A. Definition of contracts	Give a definition of *contract:* a legally enforceable agreement between two or more parties which if not carried out by one party may be enforced in a court of law by the other. Include a discussion of the basic elements of a contract: mutual assent, competent parties, legal subject matter, consideration, and where applicable, required form. In the discussion use several examples of each element.
	B. How contracts are made	Take up here what constitutes a valid offer, a counteroffer, an acceptance, and an option. Also: who may make an offer, who may accept an offer, and at what point there is a valid contract.
	C. Types of contracts	Cover the following kinds of contracts: express, implied, quasi-contract, void, voidable, valid, and unenforceable.
	D. Performance and discharge of contracts	Discuss what constitutes an executed and an executory contract.
	E. Contracts which must be in writing	Include here all those which come under the Uniform Commercial Code, such as sales over $500, and those under the Statute of Frauds.

Discuss discharge of contracts for reasons such as: impossibility of performance, destruction of subject matter, death of one of the parties, and mutual mistake.

F. Breach of contract

Go into the question: What constitutes breach of contract? Include contracts to which the Statute of Limitations applies. Also explore remedies for breach of contract.

*References:** Fisk, Unit III; Rosenberg and Ott, Part 3.

After determining the needs of the students, select several appropriate cases on contracts from those listed in Lesson 10 and discuss them with the students. You may also use other cases, such as those found at the ends of chapters in the references.

*Full citations are given in the bibliography.

Lesson 2
Sales

OBJECTIVES

After completion of this lesson, the student should:
Be able to
Explain the legal principles underlying sales contracts,
Identify both public and private agencies for protection of consumers,
Identify the legal characteristics of installment contracts, and
Know the remedies available for breach of a sales contract.

CONTENT OUTLINE	TEACHING SUGGESTIONS AND REFERENCES
I. Sales Contracts	
A. Formation of sales contracts	Explain the meaning of *goods* and the distinction between *real* and *personal* property.
1. Sale and sales contract	Discuss the difference between a *sale* of goods and a *sales contract* for goods manufactured to a special order.
2. Elements of sales contract	Expand on the elements of a sales contract including: firm offer, mutual assent, consideration, and competence of parties. Also go into modification of contract and reliance on good faith rather than consideration. Include a comparison between a merchant and a nonmerchant such as a casual buyer.
3. Form of contract	Discuss the form of contract; that is, whether oral or written, as provided in the Statute of Frauds and the UCC.

B. Transfer of ownership 1. Title and possession	State the meaning of *title* (or *ownership*) and discuss the difference between title and *possession*. Point out that this difference refers to the question of who bears the risk of loss. NOTE: This question will also be referred to in Lesson 3 on Bailments. Ownership is indicated by a bill of sale, a sales slip, an invoice, a bill of lading, or a warehouse receipt.
2. Passing of title and risk of loss	Discuss further the passing of title and risk of loss. Note that these are controlled by the intention of the parties. Also include the kind of title a person would have for stolen or lost goods.
3. Cash and credit sales a. Return of goods b. Unordered goods	Take up cash and credit sales, goods purchased with the privilege of return (including purchases on trial and on approval), and unordered goods. Explain that a law in New York State provides that if unordered goods are delivered, the receiver may treat them as his own. Also cover F.O.B. sales and bulk sales.
C. Installment sales	Discuss installment sales and secured agreements (or chattel mortgages). Mention that the Uniform Commercial Code (UCC) governs secured transactions.
1. Installment contracts	Bring in examples of installment contracts and have the students bring in any they wish to. Go over them with the class and explain the legal principles involved in each part.
2. Breach of contract	Point out the importance of filing a copy of the installment contract in the office of the county clerk or other specified office. Go into the procedures involved in breach of contract or default on a contract. Include the rights of the installment seller and the installment buyer.
D. Warranties 1. Kinds	Have the students discuss warranties including: the meaning of *warranty*, kinds of warranties (express and implied), examples of actual warranties in use, and warranty of merchantability under the UCC.

E. Protection of consumer	Discuss protection of the consumer's interest as provided by both public and private agencies. Include the Food and Drug Administration, the Federal Trade Commission, the new consumer fraud offices operated in New York State by the attorney general, and the Better Business Bureau.
F. Remedies for breach of warranty	Take up remedies for breach of warranty. Remedies of the buyer include: action for breach of warranty and for non-delivery of goods, cancellation of the contract, and suit for damages. Remedies of the seller include: resale of goods and suit for damages, action for the purchase price, and action for damages for nonacceptance of goods. *References:* Fisk, Chaps. 17-21; Rosenberg and Ott, Chaps. 14-17. At this point it would be helpful to discuss with the students some of the cases for this lesson as listed in Lesson 10.

Lesson 3

Bailments, Agency, and Employment

OBJECTIVES

After completion of the section on bailments, the student should be able to explain:

Meaning and importance of the bailment relationship in modern life,
Legal differences between sales and bailments of personal property,
Legal rights and obligations of the parties in bailment contracts, and
Statutes affecting the bailor-bailee relationship, particularly in public accommodation and transportation.

CONTENT OUTLINE	TEACHING SUGGESTIONS AND REFERENCES
I. Nature of Bailments	Clarify the nature of *bailments*. Have students give examples from their everyday life; for example, borrowing a typewriter, leaving clothes at the cleaners.
A. Difference between sale and bailment	Point out that in a *sale* title is transferred as well as possession, but in a *bailment* only possession is transferred. Discuss the roles of the *bailor* and the *bailee* in a bailment.
B. Types of bailments	Take up the various types of bailments, such as gratuitous, mutual benefit, and those involved in services to the general public.
1. Gratuitous bailment	A gratuitous bailment is for the sole benefit of either the bailor or the

	bailee. Examples include the lending of goods without charge and the storage of goods as a favor.
2. Mutual benefit bailment	A mutual benefit bailment is generally one that involves personal services in connection with personal property. Bring out examples, such as: repair of goods, service of goods, storage of goods, and pledging of personal property as security.
3. Bailment involved in services to the public	This type of bailment is related to the carrying of goods and passengers, and the providing of hotel services.
a. Carriers of goods and passengers	Discuss the difference between a common carrier of goods and a private carrier. Bring in the role of governmental regulatory agencies like the Interstate Commerce Commission (ICC). Explain the duties of a common carrier as compared to a private carrier.
b. Hotels, motels	Take up bailments involved in hotel and motel services. Explain the difference between a *guest* and a *lodger*.
C. Rights and duties of bailor and bailee	Discuss the rights and duties of bailors and bailees. Include the bailee's lien in service cases and in hotel and motel accommodations.

OBJECTIVES

After completing the section on agency, the student will be able to:
Identify the various types of agencies,
Explain who may be a principal and who may be an agent, and
Rights and responsibilities of principals and agents.

II. Nature of the Agency Relationship	Stress the need for agencies in our modern business structure. The students should be able to give many examples of the use of agents in their lives as well as in business; for example: real estate agents, stock brokers, insurance agents, etc.
A. Parties	Discuss with the class the parties to an agency, who may be an agent, who may be a principal. Also the difference between agency and employment.

	Be sure the class understands that many businesses are carried on by acts of agents: corporations, partnerships, and even single proprietorships.
B. How an agency is created	Point out that an agency can be created by agreement (or contract), by necessity, by ratification, by operation of law, and by conduct of the parties. The students will be able to give many examples. Also see the references.
C. Kinds of agents	Explain *general* agent and *special* agent. Include special agents such as auctioneers, brokers, and factors.
D. Relationship of principal and agent	Discuss the following obligations of principal to agent: compensation, reimbursement, and indemnity. Also cover the obligations and duties of agent to principal: to act as instructed, to act in good faith, to use judgment and skill, to account for the funds of the agency, and to act in person.
E. Obligations of principal to third parties	Take up the obligations of principal to third parties on contracts within the scope of his actual, implied, and apparent authority. Also, for torts committed by his agent in the course of principal's business and outside the course of that business.
F. Obligations of third parties to principal	Discuss these obligations of third parties.
G. Liability of agent to third parties	Go over the liability of an agent to third parties: on contracts within the scope of his actual, implied, and apparent authority, on contracts outside the authority, and for torts committed in the course of agency business.
H. Termination of agency	Present a list of the ways in which agency can be terminated: 1. By specified time limitation 2. By accomplishment of the purpose of the agency 3. By mutual agreement of principal and agent

4. By revocation of agency by the principal
5. By reason of death, insanity, or bankruptcy of principal or agent

Discuss these methods of termination with the class. Point out that a principal may not terminate an agency in which the agent still has a financial interest.

References: Fisk, Chaps. 32 and 33; Rosenberg and Ott, Chaps. 28 and 29.

OBJECTIVES

After completion of the section on employer-employee relationships, the student should be able to explain:

Legal difference between an employee and an agent,
Contracts of employment and how contracts are formed,
Rights and responsibilities of employers and employees, and
Major pieces of legislation affecting the employment relationship.

III. Employer-Employee Relationship

Discuss the employer-employee relationship and contracts of employment.

A. Contracts of employment

Point out the importance of such contracts in our society, and the dependence of business on employment.

1. Difference between employee and agent

Explain the difference between an *employee* and an *agent*. An employee is one who works under the direction and control of another. When he makes a contract in a special situation he may be acting as an agent for his employer.

B. Rights and responsibilities in the employment relationship

A brief discussion of the National Labor Relations Act (the Wagner Act), the Taft-Hartley Act, and the Norris-LaGuardia Anti-Injunction Act would be appropriate at this point. Include employment contracts, when contracts must be in writing, and the rights and obligations of employers and employees.

Also cover the employer's responsibility for: unfair labor practices, working conditions, safe and reasonable equipment, and job descriptions.

1. Employee's responsibilities	Bring in the employee's responsibility for following company rules and for: reasonable skill in working, loyalty and honesty, and his right to reasonable compensation. (The Fair Labor Standards Act and state and local regulations on wages and hours apply to compensation.)
2. Union's responsibilities a. Protection of rights of employees	Go over the most important provisions of the Landrum-Griffin Act (also called the Labor-Management Reporting and Disclosure Act of 1959). Mention how this law regulates the internal affairs of labor unions, and the reasons for requiring both unions and employers to make periodic reports.
C. Safety of employees	Discuss the Workmen's Compensation Act and the benefits it provides employees.
D. Financial protection of employees	Briefly discuss the financial benefits for employees and retirees provided by the Social Security Act. Be sure to include unemployment compensation benefits.
E. Equal employment safeguards	Present an explanation of the current regulations requiring equality of employment opportunity regardless of race, religion, color, age, and sex. *References:* Fisk, Chaps. 29, 30, and 31; Rosenberg and Ott, Chap. 30. Also discuss some of the cases that go with this lesson as listed in Lesson 10.

Lesson 4

Negotiable Instruments

OBJECTIVES

At the end of this lesson on negotiable instruments, the students should be able to explain:

The legal differences between negotiable instruments and other contracts,

The different kinds of negotiable instruments which are in general use,

How negotiable instruments may be transferred and the legal effect of such transfer, and

The legal rights and obligations of parties to negotiable instruments.

CONTENT OUTLINE	TEACHING SUGGESTIONS AND REFERENCES
I. Negotiable Instruments	Start a class discussion to establish the need for payment by means other than cash.
A. The nature of negotiable instruments	Develop with the class the definition of *negotiable instruments.* Have the class discuss ways in which negotiable instruments differ from other contracts. Also have the students show the importance of negotiable instruments in everyday life.
B. Requirements for negotiability	Bring out the major elements of negotiability of a negotiable instrument: 1. Must be in writing

2. Must indicate a definite time for payment or be payable on demand
3. Must contain an unconditional promise to pay
4. Must specify a definite amount of money
5. Must contain actual words of negotiability, such as "Pay to the order of"
6. Must be signed by the person who draws it up

Mention that use and legal effect of these instruments is governed by the Uniform Commercial Code.

C. Types of negotiable instruments

With the help of the students develop a list of the types as follows:

1. Promissory notes
2. Bills of exchange (or drafts) (This includes trade acceptances, money orders, bank checks, travelers checks and other instruments.)

Discuss each type in detail and give examples; include examples of uses. Specimen copies of each type would aid the discussion.

D. Transfer of negotiable instruments

Introduce the concept of endorsement to permit transfer.

1. Types of endorsements

Outline the kinds of endorsement to include:

Blank endorsement
Full endorsement
Restrictive endorsement
Qualified endorsement
Conditional endorsement

2. Responsibility of endorser

Explain the endorser's responsibilities.

References: Rosenberg and Ott, Chaps. 18-21; Fisk, Chaps. 24-28.

Also discuss some of the cases that go with this lesson as listed in Lesson 10.

Lesson 5

Insurance

OBJECTIVES

After completing this lesson, the student should:

Understand the nature and purpose of insurance,

Be able to explain:

The protection provided and the subtypes in each of the following kinds of insurance on people: life insurance, accident and health, medical, fidelity, workmen's compensation, and social insurance,

The insurable interest requirement in fire insurance coverage, what to include in a fire loss, and how to establish that loss,

The main clauses of a New York standard fire insurance policy, and

The protection provided in an automobile insurance policy under the theft, fire, collision, and liability clauses.

CONTENT OUTLINE	TEACHING SUGGESTIONS AND REFERENCES
I. Insurance	Since many of the students may already have a good knowledge of insurance, it would be advisable to give a pre-test. This will help determine how much review and what depth of teaching will be necessary.
A. The insurance contract 1. Content of the policy	The insurance contract is usually known as a *policy*. Explain the content of an insurance contract, including what is required of the parties. Be sure the students understand the *insurable interest* requirement. Include a discussion of premium payment, grace period, and what happens in case of default.

Be sure the students understand the common provisions of life insurance policies, such as: naming of a beneficiary, incontestability, misstatement of age, cash surrender value, reimbursement, loan value, and suicide provisions.

2. Specimen policies helpful

It is advisable to have specimen copies of policies available. Many insurance companies will provide them upon request. Some students will undoubtedly have insurance policies of their own which they may wish to bring to class.

It would also be desirable to invite an insurance agent to talk with the class about recent developments in insurance.

B. Types of insurance for people

Present the following as being the principal kinds of insurance for people:

1. Life insurance
2. Accident and health (or income) insurance
3. Medical insurance
4. Fidelity insurance
5. Workmen's compensation
6. Social insurance

1. Cover protection, premiums, etc.

For each type discuss the kind of protection provided, the methods of paying premiums, and benefits. For life insurance, enumerate and discuss the four basic categories. For accident and health insurance, point out that it provides a payment to replace income lost because of accidental injury or sickness.

2. Medical insurance

Medical insurance generally refers to a policy which provides or pays for medical and hospital services.

3. Fidelity insurance

Fidelity insurance provides protection against dishonesty of a person.

4. Workmen's compensation

For workmen's compensation and social insurance only a brief discussion is needed here to supplement the coverage given in Lesson 3.

C. Types of insurance for property

Under the heading of insurance for property, fire, automobile, and homeowners insurance should be covered.

1. Fire insurance

Since many states of the United States have adopted the New York Standard Fire Insurance form of policy, it is desirable to cover the clauses in it.

a. Main topics to cover

Under fire insurance cover the following main topics:

1. Insurable interest requirement
2. Most important standard clauses
3. Obtaining of coverage beyond that in the standard policy
4. What to include in fire loss and how to establish that loss

b. Standard clauses

Some standard clauses that are worth discussing include the following:

1. Concealment and fraud
2. Increase of risk
3. Moving of covered personal property
4. Assignment of a policy
5. Prorating of liability (where two or more policies cover the same fire risk)
6. Cancellation
7. Coinsurance

2. Automobile insurance

The topics most commonly covered in automobile insurance are: theft, fire, collision, liability, and comprehensive.

a. Collision

Point out that collision insurance covers damage to the car of the insured in case of collision with another car or object. Discuss this with the class.

b. Liability

With the help of the class bring out the concept of liability coverage, which provides protection to the insured for injury to persons or damage to the property of others.

c. Theft, fire, comprehensive, etc.

Cover theft, fire, and comprehensive briefly. Also bring in an exploration of compulsory automobile insurance laws and no-fault insurance.

References: Fisk, Chaps. 34-38; Rosenberg and Ott, Chaps. 25-27.

Also discuss some of the cases that go with this lesson as listed in Lesson 10.

Lesson 6

Real and Personal Property, Wills, and Inheritance

OBJECTIVES

After completion of this lesson, the student should be able to explain:
The difference between real and personal property,
The methods of acquiring real property,
The types of ownership of real property and the restrictions imposed on ownership for the public interest,
The legal principles involved in purchase of real property,
The kinds of mortgage loans and the procedures for obtaining such loans,
The kinds of leases for real property and the kinds of tenancy,
The importance of making a will and the characteristics of a valid will,
The procedures in carrying out the provisions of a will, and
How an estate is distributed when no will is left.

CONTENT OUTLINE	TEACHING SUGGESTIONS AND REFERENCES
I. Real property	Bring out the concept that private ownership of property is an important force in our society. Review the difference between *real* and *personal* property.
A. Types of real property	Discuss what constitutes real property. Point out that owning a home is (in most cases) the largest and most important investment an American family will make. *Owning a home* includes ownership of a house, a condominium, a "cooperative" apartment, or a mobile home.

	Discuss land, and buildings on the land; also the distinction between crops to be harvested, and shrubs and trees planted as additions to the landscape.
II. Ownership of Real Property A. Types of ownership	Discuss types of ownership including: estates in severalty, joint tenancy, tenancy in common, and tenancy by entirety.
B. Methods of acquiring ownership	Take up methods of acquiring ownership including: purchase, gift, inheritance, and adverse possession.
C. Acquiring real property by purchase	A discussion of the role of the real estate agent is relevant here. Emphasize the need for a legal advisor for both buyer and seller. What is involved in the contract of sale of real property should also be discussed. Clarify the types of deeds and the legal implications of each. It would be useful at this point to discuss a *closing* and what is involved in it. Students may have had experience in this area which should contribute to the discussion. Also include explanations of lien, easement, title restrictions, abstract of title, escrow agreement, and the recording of deeds.
D. Limitations imposed by public authorities	Under the heading of limitations take up the following: zoning and building restrictions, health and safety regulations, easements, air rights, and the right of eminent domain.
E. Mortgages	It is important to discuss mortgages including: sources of mortgage loans, kinds of mortgages, the mortgage contract, payments, and interest. Also include the procedure in mortgage foreclosure.
III. Renting real property	Discuss the relationship between a *landlord* and a *tenant*, and the

	significance of a *lease*. Also define each of these terms.
A. Kinds of Tenancy	Review the kinds of tenancy including: tenancy for years, periodic tenancy, and tenancy at will.
B. Kinds of leases	Take up kinds of leases, including oral and written, and the possible occurrences at the end of a lease. It would be helpful to obtain copies of printed lease forms or of leases actually in use. The former can be obtained from realty boards, or attorneys, or purchased in some stationery stores. Leases actually in use can be brought in by students.
C. Troublesome clauses	Particularly troublesome questions which are worthy of discussion include: Who is responsible for decorations and repairs? and May a tenant remove fixtures at the end of a period of occupancy?
IV. Transfer of Property Through Wills and Inheritance	
A. Wills	
1. Requirements for a valid will	Stress the importance of making a will and the requirements of a valid will. Also mention that a copy should be left with an attorney and one with the executor.
2. Changing or revoking a will	Go over the procedures for changing a will, which include changes by codicil, by destruction, and by making a new will.
3. Carrying out the provisions of a will	Explain the duties and qualifications of an executor and the probating of a will.
B. Intestacy	Discuss the way in which an estate is distributed when a person dies without leaving a will. Include appointment of an administrator, to whom the distribution would be made, and the share each might get. Also mention estate taxes briefly, if time permits.
	References: Fisk, Chaps. 39-42; Rosenberg and Ott, Chaps. 35-39.
	Also discuss some of the cases that go with this lesson as listed in Lesson 10.

Lesson 7

Government Protection of Business

OBJECTIVES

After completing this lesson, the student will:

Understand how government protects businesses by the granting of patents, copyrights, and franchises, and the registering of trade names, and trademarks, and

Know which governmental agencies provide these protections.

CONTENT OUTLINE	TEACHING SUGGESTIONS AND REFERENCES
I. Protection of Individual Creations	To stimulate creativity for the public good the Federal Government grants virtual monopolies to individuals who produce original products or writings. A similar monopoly is given to operate a business like a railroad where free competition would be contrary to the public good.
A. Copyrights	Discuss what material can be copyrighted, the general procedure for obtaining the copyright, and the benefit this gives to the copyrightholder. Mention that the initial 28-year copyright period can be renewed for another 28 years.
B. Patents	Explain what is patentable and what is not. Clarify the difference between a design patent, which involves an *artistic* design, and a nondesign patent. Point out the time limit of 17 years for the latter type and a period which can be either 3 1/2, 7, or 14 years for a design patent.

C. Trademarks

Explain the value of a trademark and why it needs protection. A trademark can be registered with the U.S. Patent Office for 20 years and can be renewed for additional time.

Add here discussion about governmental protection of trade names and protection against undesirable kinds of competition.

D. Franchises

Explain the *natural monopoly* that exists in public utility industries such as gas, electricity, telephone, bus transportation, railroads, and airlines. Discuss the nature of franchises and the benefits they bring to the public and those who hold them.

Mention state public utility commissions, and Federal agencies like the Interstate Commerce Commission and the Federal Power Commission.

References: Fisk, pp. 558-559; Rosenberg and Ott, pp. 108-110, and 488.

Also discuss some of the cases that go with this lesson as listed in Lesson 10.

Lesson 8

Government Regulation of Business

OBJECTIVES

Upon completion of this lesson, the student should be able to:

State the general purpose and summarize the major provisions of Federal laws: regulating competition; concerned with money, credit, and securities; and covering consumer protection;

Summarize the main functions of Federal and state agencies controlling public utilities;

Give the major characteristics of sole proprietorships, partnerships, and corporations, and know the general purposes of the principal laws controlling them.

This lesson is intended only to give students an overview of the subject. They should not be required to have a detailed knowledge of the laws, governmental agencies, and forms of business included. For each law and agency, you can present to them the general purpose and a summary of its main provisions (for a law), or its main functions (for an agency). It would be helpful if you would make up a written statement of this information and hand it out to the students. It could include some of what is given below, together with a few additional details.

I. Laws Regulating Competition

A. The Sherman Act of 1890

The Sherman Act attempts to promote free competition by prohibiting contracts and combinations "in restraint of trade." Under it civil and criminal penalties can be imposed and injunctions can be granted.

B. The Clayton Act

This law, passed in 1914, prohibits a corporation from acquiring stock or assets of another corporation if it would lessen competition or tend to create a monopoly. It also forbids a corporation from using price discrimination among customers, if that practice tends to lessen competition.

C. The Federal Trade Commission Act
This law, passed in 1914, established an administrative agency, the Federal Trade Commission, to prevent the use of unfair methods of competition. Using the authority granted to it under the law, the Commission has identified: false advertising, misbranding, disparagement of competing products, commercial bribery, violation of trade secrets, trade boycotts, and division of territory as practices which the law can control. This body issues cease and desist orders and also has the power to levy fines.

D. The Robinson-Patman Act, 1936
This law was passed to amend the Clayton Act. Its objectives are to prevent sellers from using discrimination in price or service which tends to affect competition among their customers. Also to prevent discriminatory prices which a seller might use to gain an advantage over his own competitors.

E. The Miller-Tydings Act
Effective in 1937, this law is sometimes referred to as the "fair trade exception" to the antitrust provisions against price-fixing. It permits vertical price-fixing in the sale of trademarked and brand-name goods. The purpose is to protect the goodwill created by the continued use of a specific name or mark. This *resale price maintenance* is effective only in those states having laws providing for it. Enforcement is by the use of injunctions and suits for damages.

References: Fisk, Chap. 45; Rosenberg and Whitcraft, Unit 21.

II. Laws on Money, Credit, and Securities

A. Federal Reserve Act, 1913
This law set up the Federal Reserve System to regulate the flow of money and credit and to provide certain services for the banks in the System, the U.S. Government, and the public.

One important tool the Federal Reserve System adjusts for regulating the amount of money and credit in circulation is the *rediscount rate*, which is the interest rate the Reserve Banks charge on loans they make to member banks. Besides lending money to member banks, the System also provides currency to them and operates an arrangement for *clearing* checks. It also collects economic data and publishes it for use of the Government and the public.

B. The Federal Securities Act of 1933
This law makes it illegal to use the mails or any other means of interstate commerce to sell or offer to buy a security, unless the security is registered with the Securities and Exchange Commission, and a proper prospectus is used. The Commission also has the authority to regulate securities exchanges and *over-the-counter* markets. The Commission does not approve or disapprove an issue of securities, but merely requires that facts be made public about the value of a security offered for sale to the public.

C. Income Taxes

The law providing for a Federal income tax was passed in 1913. Every person and every business with income above a specified level is required to make an income tax *return* each year. Expenses incurred in earning income are deducted from the gross income before the tax is computed. Other deductions are permitted, including medical expense, contributions to certain nonprofit organizations, interest paid, and some state and local taxes. Individuals (but not businesses) may also deduct a stated amount (an exemption) for each dependent. After all permissible deductions are made, a *sliding-scale* of taxes is applied. This means that the tax rate increases as taxable income increases.

New York State has an income tax which follows the pattern of the Federal tax very closely, except that much lower tax rates are applied. A number of other states also have income taxes.

References: Poe, p. 35 and Chap. 15; Rosenberg and Whitcraft, pp. 473-474.

III. Agencies Controlling Public Utilities

A. The Interstate Commerce Commission

The Interstate Commerce Act, which first established the Commission as an independent agency, was passed in 1887. The Commission regulates carriers engaged in transportation in interstate commerce, and in foreign commerce within the United States. This includes railroads, trucking companies, bus lines, freight forwarders, water carriers, oil pipelines, transportation brokers, and express agencies. The Commission has the authority to license operation of some types of carriers and to regulate rates, acquisition of a carrier, mergers of carriers, and operation of certain equipment.

B. The Federal Power Commission

This Commission operates under the Federal Power Act, originally enacted in 1920, to regulate the interstate aspects of the electric power and natural gas industries. It issues permissions for non-Federal hydroelectric power projects, regulates rates for electricity and gas, and controls other aspects of the distribution of electric power and natural gas.

C. The Civil Aeronautics Board

This board was originally established by the Civil Aeronautics Act of 1938. It has the authority to regulate the civil air transport industry within the United States and between the United States and foreign countries. The Board authorizes domestic carriers to engage in interstate and foreign commerce, and authorizes foreign carriers to engage in air transportation between the United States and foreign countries. The Board also controls rates and fares, acquisition of an air carrier, and merger of such carriers.

D. The Federal Communications Commission
This commission was created by the Communications Act of 1934. It regulates interstate and foreign communications carried on by wire or air. This includes: regulation of telephone, telegraph, radio (both standard, or AM, and frequency-modulated, or FM), television, cable television, and satellite communications. The Commission has authority to issue licenses to communications carriers, to assign radio frequencies, to regulate rates charged and services provided, and to regulate some other aspects of the industry.

E. State Control of Public Utilities
The New York State Public Service Commission exercises control within the State over corporations engaged in producing or distributing (or both) of gas, electricity, steam, water, and liquid petroleum; also the pipelines and other equipment used with these products. The Commission exercises control over rates and services, and prescribes uniform accounting practices for utility companies. In supervising utilities the Commission aims toward achieving safe, adequate, and reliable operation.

Many other states have similar agencies for regulating interstate utilities, which operate very much like the New York State Public Service Commission.

References: *N.Y. Red Book*, 1973 ed., pp. 835-836; *U.S. Govt. Organization Manual*.

IV. Laws for Consumer Protection

A. Federal Food, Drug, and Cosmetics Act
This is a very comprehensive law which prohibits the sale in interstate commerce of foods, drugs, cosmetics, or therapeutic devices which are injurious, adulterated, or misbranded. Other, more recent laws and regulations deal with advertising of cigarettes and the use of cancer-inducing food additives.

B. Fair Credit Reporting Act
This law, passed in 1970, provides that a person may ask to inspect his credit file and have incorrect data corrected. The Act prohibits the use of outdated credit information and limits the use of credit information to those with a legitimate reason. It covers credit reports for extension of credit, for selling insurance, and for employment.

C. Consumer Credit Protection Act, 1968 (The Truth-In-Lending Act)
The purpose of this law is to require a seller of credit to inform a buyer just what interest he will have to pay. The seller must inform the potential debtor of the amount of the finance charge in dollars and in annual percentage rate.

Many states are considering the adoption of a uniform consumer credit code to substitute one law for the many now in existence.

References: Fisk, Chaps. 4, 22; Rosenberg and Whitcraft, Unit 21.

V. Creating a Business

Discuss with the students the question of how to start a business. This should include the need for a decision as to the form of business to use, and the laws which affect a business. Also, the definition of the term *business* is worth some discussion.

A. Sole proprietorship
Most *small* businesses are sole proprietorships, which means they are owned by one person only. This form of business is the most flexible and least controlled by local, state, and Federal laws. A business of this kind, as with any other business, is bound by the local zoning laws. Discuss its advantages and disadvantages with the class.

B. Partnership
A partnership is generally created by a contract of partnership and consists of two or more co-owners. A big advantage it has over the sole proprietorship is that it permits the combination of a variety of skills which two or more people might have. A big disadvantage is that a disagreement among partners can wreck the business. A partnership is controlled by many laws, but the most important conditions of operation usually are contained in the contract of partnership.

C. Corporation
A corporation differs from the other two forms of business mentioned above in that governmental consent is required for it to exist, and its existence is separate and apart from its members or owners. The corporate form lends itself to having many owners and to growing into a large size. Discuss the advantages and disadvantages of the corporate form of business, including particularly the following characteristics: perpetual life, limited liability, transferable shares of ownership, access to capital, and professional management.

References: Fisk, Chaps. 43, 44, 45; Rosenberg and Whitcraft, Units 46, 47.

Lesson 9
Law Enforcement

OBJECTIVES

Upon completion of this lesson, the student should be able to:

Explain the purpose of courts and the basic way they operate,

Outline the basic structure of the state and Federal court systems and briefly state the usual jurisdiction of each class of court,

Explain briefly how a case gets to court in civil and in criminal cases,

Give basic definitions of civil wrong, crime, tort, each type of crime, and other terms important to enforcement of law,

Give several examples of civil wrongs, and of each type of crime, and

Analyze at least one case dealing with a civil wrong and one for each type of crime.

As with Lesson 8, this lesson is intended to give students only an overview of the subject. They should not be expected to gain a detailed knowledge. The statements of objectives above define the depth to which you should expect them to learn.

CONTENT OUTLINE	TEACHING SUGGESTIONS AND REFERENCES
I. The Courts A. How courts began	Briefly point out that among primitive men disputes were settled either by the head of a family or a tribal head, using the customs of the times. Over a long period of time laws developed from these customs, and courts arose as places for assuring that the laws were followed.

B. General method of operation	Discuss the general approach of courts in settling disputes. Bring out the two main points that courts determine the facts of a case and then apply the law to the facts.
II. General Structure of Court System	Indicate that there are two general kinds of courts: state courts and Federal courts.
A. State courts	The structure of courts within states usually includes the following: local courts, courts of general jurisdiction, intermediate courts, and courts of highest appeal.
1. Local courts	*Local courts* have a limited jurisdiction. This usually includes minor matters, petty crimes, and civil actions involving small amounts of money. Local courts are sometimes called *justice of the peace* courts or *magistrate* courts. In larger communities they are called *municipal* courts. Many cities also have *small claims courts* which have jurisdiction over civil suits, usually for $500 or less. These courts operate informally and the parties to action can act as their own attorneys.
2. Courts of general jurisdiction	In most states at least one *court of general jurisdiction* is required in each county. It is called *county court*, or some other name. Action for *any* matter can be started in this kind of court but generally *minor* cases are started in the *local* courts. All cases involving *major* crimes and *large amounts* of money *must* be started in a court of general jurisdiction. Also, appeals from local courts can be brought there.
3. Intermediate courts	*Intermediate courts* are often called *appellate* courts; cases are appealed there from the lower courts. This kind of court does not usually review the facts in a case but only the law. That is, it determines whether legal principles have been properly interpreted.

4. Highest court of appeals

In 40 states the highest court is called the *state supreme court;* in other states it is called *court of appeals* (as in New York State) or some other name. This court makes the *final* determination on the law in cases involving a constitutional question. In such cases appeals can be continued through all the Federal courts.

B. Federal courts

Federal courts generally have jurisdiction over cases in which the United States is a party, cases involving violations of Federal laws, and those involving citizens of different states when large amounts of money are concerned. These courts have jurisdiction over some cases in which a state is a party, and other cases not mentioned here.

1. Kinds of Federal courts

The main structure of Federal courts includes *district* courts, *courts of appeals,* and the *United States Supreme Court,* which is the highest court in the land. There are also other Federal courts for special purposes.

2. Federal District Courts

The United States and its territories are divided into judicial districts for administration of district courts. These are courts of original jurisdiction and most Federal cases are begun in them.

3. Courts of Appeals

The country is also divided into *judicial circuits* with one *United States Court of Appeals* in each circuit. Cases are appealed there from the district courts. In most cases this court renders the final decision, because the Supreme Court accepts only a limited number of appeals.

4. The Supreme Court

The United States Supreme Court has both original and appeals jurisdiction. Its original jurisdiction is over important matters in which the United States, or a state, or a foreign government is a party. Its appeals cases are selected: usually they involve very important public questions, such as the constitutionality of a law.

C. How a case gets to court

A complete system for administration of justice includes, besides the courts, the police and a prosecuting attorney. The method by which a case gets to court depends on whether it is a civil case or a criminal case.

1. Civil action

In a *civil case* a private person (the *plaintiff*) brings action against another person (the *defendant*) who has "done him wrong."

2. Criminal action

A crime is considered a wrong *against society* and action is brought on behalf of society by a prosecuting attorney. Before a criminal action, the facts are usually reviewed by a grand jury, which then decides whether the case should be prosecuted.

3. Review cases

Review civil and criminal court procedures with the class and bring in a few cases for discussion. You can find pertinent cases listed in Lesson 10.

References: Anderson & Kumpf, *comprehensive volume*, pp. 1-36; *Business law syllabus.*
(NOTE: The 1968 edition, cited in the Bibliography, is useful but not up-to-date. At the time of going to press a new edition is in process, which is expected to be published either in 1973 or 1974.)

III. Civil Wrongs and Crimes

Discuss with the class the difference between a civil wrong and a crime.

A. Civil wrongs or torts

Emphasize the point that a *civil wrong* involves two ordinary citizens. At This point it might be desirable to have the students put on a simple play like the one contained in pages 30-34 of Rosenberg and Whitcraft. For them to do this, you will have to assign it in advance and perhaps help the students organize for it.

A civil wrong is also called a tort. (In the opinion of some people certain violations of a contract might be considered civil wrongs that are not torts.)

1. Kinds of torts

The most common torts include assault, battery, trespass, nuisance, conversion, defamation, and negligence resulting in damage. Present a definition of each of these torts and have the students give an example of each.

B. Crimes

A *crime* is a wrongful act for which the law prescribes punishment. Such an act is thought of as a violation of the rights of the *community*. Point out that in some cases an act can be both a crime and a tort.

1. Classes of crimes

A crime can be classed as either a *misdemeanor* or a *felony*. Whether a given crime is a misdemeanor or a felony depends on the state in which it occurs, since definitions vary.

2. Misdemeanors

A *misdemeanor* is a crime of a less serious nature, usually punishable by fine or imprisonment in a county or city jail. Examples are public drunkenness, disorderly conduct, and driving a car at excessive speeds. Some states are instituting laws which make possession of drugs a misdemeanor, rather than a felony.

3. Felonies

A *felony* is a crime of a very serious nature and the punishment is more severe. The usual test for a felony is whether it is punishable by death or imprisonment in a state prison. Examples of felonies are murder, kidnapping, larceny, arson, forgery, and embezzlement.

4. Business crimes

Some crimes occur more often in business than in any other situation and are called *business crimes*. Included are: violation of the minimum wage laws, larceny, forgery, bribery, and extortion. A crime of this kind might also be a tort. A business crime can be a felony in some cases and a misdemeanor in others.

Introduce some of the pertinent cases from Lesson 10 and have the class discuss them.

References: Business law syllabus; Fisk, Chaps. 5 and 6; Getz, Unit 12; Rosenberg and Ott, Chaps. 2 and 3.

Lesson 10

Overall Review

OBJECTIVES

After taking part in a discussion of a good sampling of cases on each topic in the course, the students should have improved their ability to explain:

The important principles in each topic,
The methods of applying those principles in the business world, and
The way the courts operate to assure that the principles are applied legally.

The cases listed in this lesson are intended as a basis for review of the whole course. More cases are given here than you can cover in the class time available, and you will have to pick from among them. You may, of course, use cases other than those given here, if you prefer.

We recommend that you include some cases on each topic as you cover it originally in each lesson. Then you can cover more cases as a review at the end of the course. The Bibliography contains the complete citation for each of the books from which the cases are taken.

For Lesson 1
CONTRACTS

Anderson and Kumpf, *comprehensive volume*
p. 86, Case 4, McNulty v. Medical Services
Case 7, Kemp v. Nigesli Amusement Co.
p. 126, Case 13, Matz v. Martinson
Case 14, Byers v. Sun Savings Bank
Case 15, Squilache v. Tidewater Coal and Coke Co.
p. 180, Case 13, Paley v. Barton Savings and Loan Association

p. 196, Problem 10
p. 235, Problem 5
p. 251, Case 6, Dankowski v. Cremona

Fisk
p. 134, Case 4, In re McDonald's Estate
p. 144, Case 2, Lindsey v. Hubbard
p. 167, Case 5, Graphic Art Finishers v. Boston Redevelopment Authority
p. 195, Case 6, Brown v. Nims

Rosenberg and Ott
pp. 73-74, Cases 2, 5, 9, and 11
p. 85, Cases 6 and 9
p. 94, Cases 3, 4, and 11
p. 111, Cases 2, 5, 7, and 11
pp. 122-123, Cases 1, 4, 6, 10, 11, and 12
p. 135, Cases 4, 5, and 6
p. 148, Cases 1, 5, 8, and 10

For Lesson 2
SALES

Anderson and Kumpf, *comprehensive volume*
p. 475, Cases 10 and 13
p. 493, Case 14, Powell v. Cavanaugh Bros.
Case 15, Atlas Auto Rental Corp. v. Weisberg
p. 510, Case 13, Ford Motor Co. v. Pittman
p. 522, Case 10, Scanlon v. Food Craft, Inc.
Case 11, Gindy Manufacturing Co. v. Cardinale Trucking Co.
p. 534, Case 4, Filler v. Rayex Corp.
Case 5, Sabloff v. Yamaha Motor Co.
p. 552, Case 10, Tomezuk v. Town of Cheshire
p. 574, Case 4, Clairol v. Cody's Cosmetics
Case 6, Socony Mobil Oil Co. v. Greif
Case 7, Yoder v. County of Cumberland
Case 8, Jordon v. Montgomery Ward & Co.

Fisk
p. 261, Case 3, Rubin v. Consolidated Pipe Co.
p. 291, Case 4, Shay v. Joseph
Case 6, Rogers v. Toni Home Permanent Co.
p. 306, Case 1, A. C. Carpenter, Inc. v. Boyer Potato Chips
Case 5, House of Price, Inc. v. Kleigman Brothers

Rosenberg and Ott
pp. 198-199, Cases 1, 2, and 12
pp. 212-213, Cases 1, 3, 7, and 9

For Lesson 3
BAILMENTS, AGENCY, AND EMPLOYMENT
A. Bailments

Fisk
p. 224, Case 2, Marsh v. American Lockers Co.
p. 237, Case 1, Lines Music Co. v. Holt

Rosenberg and Ott
pp. 291-292, Cases 2, 6, and 7
p. 299, Cases 3, 4, and 5

B. Agency

Anderson and Kumpf, *comprehensive volume*
p. 269, Problem 5
p. 269, Case 6, Walker v. Pacific Mobile Homes
p. 284, Case 11, Wiles v. Mullinax

Fisk
p. 462, Case 3, Amplo v. DiMauro
Case 6, Cuffman v. Blunkall

Rosenberg and Ott
pp. 388-389, Cases 2, 3, and 6

C. Employment

Anderson and Kumpf, *comprehensive volume*
p. 316, Case 8
p. 316, Case 10, Lummus Cotton Gin Co. v. Bough

Fisk
pp. 418-419, Case 1, McCarty v. Great Bend Board of Education
p. 437, Case 1, Vogh v. McCarthy, Inc.
Case 3, Pennsylvania Labor Relations Board v. Sansome House Enterprises
p. 488, Case 3, Lipstak v. Karsner

Rosenberg and Ott
pp. 409-410, Cases 2, 3, 5, 7, 11, and 12

For Lesson 4
NEGOTIABLE INSTRUMENTS

Anderson and Kumpf, *comprehensive volume*
p. 336, Case 11, Universal C. I. T. Credit Corp. v. Ingel
p. 366, Case 12, Marine Midland Trust Co. v. Blackburn
p. 399, Case 10, Goldsmith v. Atlantic National Bank
p. 408, Case 7, Liesemer v. Burg

Fisk
p. 358, Case 2, New Britain National Bank v. Baugh
p. 382, Case 1, Security National Bank of Long Island v. Temarantz
p. 395, Case 5, Pavitis v. Farmers Union Livestock Commission

Rosenberg and Ott
pp. 249-250, Cases 2, 4, and 8
pp. 260-261, Cases 3, 6, and 12

For Lesson 5
INSURANCE

Anderson and Kumpf, *comprehensive volume*
p. 626, Problem 8
Case 12, Harsha v. Fidelity General Co.
p. 634, Case 6, National Life & Accident Insurance Co. v. Walker

Fisk
p. 491, Case 4, Lennon v. John Hancock Mutual Life Insurance Co.
p. 505, Case 2, Harvey v. Switzerland General Insurance Co.
p. 506, Case 6, Intercoast Mutual Life Insurance Co. v. Andersen

Rosenberg and Ott
p. 327-328, Cases 3, 6, and 11

For Lesson 6
REAL AND PERSONAL PROPERTY, WILLS, AND INHERITANCE
A. Real and personal property

Anderson and Kumpf, *comprehensive volume*
p. 423, Problem 6
p. 424, Case 7, Harrington v. Bailey
Case 13, Stamets' Estate

Fisk
p. 566, Case 5, Picard v. United Aircraft Corp.
p. 582, Case 3, Digirolamo v. Philadelphia Gun Club
p. 593, Case 2, Hughes v. Westchester Development Corp.

Rosenberg and Ott
pp. 506-507, Cases 3 and 9

B. Wills and inheritance

Anderson and Kumpf, *comprehensive volume*
p. 424, Case 13, Stamets' Estate

For Lesson 7
GOVERNMENT PROTECTION OF BUSINESS

Fisk
pp. 69-70, Case 2, United States of New Jersey v. Kingsley
Case 3, Arrow Metal Products v. Federal Trade Commission
Case 5, United States v. Vitasafe Formula Co.

Rosenberg and Ott
pp. 395-396

For Lesson 8
GOVERNMENT REGULATION OF BUSINESS

Anderson and Kumpf, *comprehensive volume*
p. 701, Case 6, Vincent Drug Co. v. United States Tax Commission

A. Creation of business ownership

Fisk
p. 624, Case 2, Owen v. Cohen
Case 5, Cotton v. Perishable Air Conditioners
p. 640, Case 1, Allen v. Bittman Tissue Corp.

For Lesson 9
LAW ENFORCEMENT

Fisk
p. 105, Case 3, Kent v. United States
Case 4, State v. Everly

Rosenberg and Ott
p. 22, Cases 5, 8, 9, and 12
p. 32, Cases 3, 4, 7, and 9
p. 44, Cases 2 and 5

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